IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8419 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ISMAIL GAFURBHAI VAHORA - Petitioner(s)
Versus
S.S.KADRI,COMMISSIONER APPOINTED BY CIVIL COURT,ANAND - Respondent(s)

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Appearance :

MR DC DAVE for Petitioner(s) : 1,
MR SS KADRI, IN PERSON

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 11/04/2007

ORAL JUDGMENT

1. Rule. Mr. S.S.Kadri, who appeared in person, waives service of 'rule'.

2. Present is the petition filed against order dated 23rd January, 2006, passed by the learned Principal Senior Civil Judge, Anand, whereby the learned Judge was pleased to reject the application Exh.275, filed in Special Darkhast No.28 of 2000.

3. Mr. S.S.Kadri, learned advocate, who is epic center of controversy, is present. After the matter is heard at length and Mr. S.S.Kadri made his submissions, it was put to Mr. S.S.Kadri that looking to the controversy, brought before this Court, the Court feels that as an officer of the Court more so as an apprised officer of the Court, he must walk out with head high and tell the Court that in view of the allegations made against him, he does not deem it proper to continue to work as a 'Court Commissioner.'

This is a right approach and a right conduct of an officer of the Court once the party expresses loss of confidence or distrust.

4. Mr. S.S.Kadri, the Court Commissioner, submitted that certain allegations were made against him for his discharge of duties as Court

Commissioner. He wanted to reply those allegations.

5. This Court is of the opinion that the allegations made by the parties can not be replied better by answering and explaining those allegations. Such allegations stand answered best by disowning the appointment of Court Commissionership once party expresses loss of confidence.

At this juncture, Mr. S.S.Kadri submitted that in view of the aforesaid discussion, he is willing not to continue as a Court Commissioner. The offer made by Mr. S.S.Kadri is accepted. Mr. Kadri not to continue as a Court Commissioner. The Court below is directed to appoint any other suitable person as a Court Commissioner after taking the stock of the overall situation to avoid such occuring in future.

At this juncture, Mr. S.S.Kadri submitted that there are arrears of remuneration. On inquiry about the 'quantum' of arrears, he is not able to spell out the exact figure. Be that as it may, it is a matter of account and

the same should be settled by an appropriate order by the Court below.

6. In view of the voluntarily walking out of the Court Commissionership by Mr. S.S.Kadri, the challenge to order dated 23rd January, 2006 does not survive. The learned Principal Senior Civil Judge, Anand, is directed to appoint new Court Commissioner.

7. The present petition stands allowed in aforesaid terms. Rule is made absolute in aforesaid terms. No order as to costs.

(RAVI. R. TRIPATHI, J.)

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